



NCN: [2023] UKFTT 00165 (GRC)

Case Reference: EA/ 2022/0316

**FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
INFORMATION RIGHTS**

Heard: by determination on the papers  
Heard on: 21 February 2023  
Decision given on: 21 February 2023

Before:  
Judge Alison McKenna

**MARK JAMES**

**Appellant**

**- and -**

**THE INFORMATION COMMISSIONER**

**First  
Respondent**

**-and-**

**THE MEDICINES AND HEALTHCARE  
REGULATORY AUTHORITY**

**Second  
Respondent**

**DECISION**

**This appeal is struck out under rule 8 (3) (c) as having no reasonable prospect of success**

**REASONS**

1. The Respondent's Strike Out Application dated 12 December 2022 is allowed.
2. The Appellant made an information request about the quantitative risk assessment data concerning Covid 19 vaccines. The Information Commissioner published a Decision Notice on 28 September 2022 which found that the Medicines and Healthcare Products Regulatory Agency ('MHRA') was entitled to rely on s. 14 FOIA 2000 in refusing to comply with the request. This was because there was evidence of a targeted campaign against MHRA whereby similar requests had been made 292 times in a short period, placing an undue burden on MHRA.
3. The Appellant filed a Notice of Appeal on 7 October 2022. The Appellant's Grounds of Appeal are that MHRA is hiding information, and that it does not matter how many times the same question is asked if it is a valid question.
4. On 12 December 2022, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) of the Tribunal's rules on the basis that the appeal had no reasonable prospects of success.
5. The Appellant was invited to make submissions in response to a proposed strike out, as required by rule 8 (4). On 20 and 21 December 2022 the Appellant reiterated his grounds of appeal and submitted that the MHRA is hiding information. He provided additional information about the ONS data.
6. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited*

(in liquidation) [2014] UKUT 0329 (TCC), in which it is stated at [41] that

*...an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a “mini-trial”. As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.*

7. Applying this approach, I have considered both parties' representations and concluded that this is a case which may be described as 'not fit for a full hearing'. This is because the role of this Tribunal under s. 57 and s. 58 FOIA is to decide whether there is an error of law or inappropriate exercise of discretion in the Information Commissioner's Decision Notice. The grounds of appeal simply do not engage with that jurisdiction and the Appellant has not in his subsequent correspondence suggested that the Decision Notice was wrong to conclude that his information request was part of a concerted campaign that engaged s. 14 FOIA. He has merely reiterated his original request at every stage.
8. It does not therefore seem to me that any Tribunal properly directed could allow this appeal. In all the circumstances, I have concluded that this appeal should be struck out as having no reasonable prospects of success. I direct accordingly.

**(Signed)**

**Dated: 21 February 2023**

**Judge Alison McKenna**

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